

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEREMY HARKINS,

Plaintiff,

v.

SUTTER COUNTY, et al.,

Defendants.

No. 2:20-cv-00347-DAD-JDP

TENTATIVE PRETRIAL ORDER

On February 21, 2023, the court conducted a final pretrial conference. Attorney Michael Green appeared as counsel for plaintiff; attorney Paul A. Cardinale appeared as counsel for defendants Sutter County, California Forensics Medical Group, Wellpath Management, Inc., Doris Brown, Lisa Rogers, and Sherill McGuire; attorney Jerome Martin Varanini appeared on behalf of defendants California Forensics Medical Group, Wellpath Management, Inc., Doris Brown, Lisa Rogers, Sherill McGuire, Genevieve Lewis and Michael Foskey. Having considered the parties' joint pretrial statement and the views of the parties presented at the conference, the court issues this tentative pretrial order.

Plaintiff brings this civil rights action against defendants Sutter County, California Forensics Medical Group, Doris Brown, Lisa Rogers, Wellpath Management, Inc., Sherill McGuire, Genevieve Lewis, and Michael Foskey, with claims arising under 42 U.S.C. § 1983, California Government Code § 845.6, and California state professional negligence law.

1 I. JURISDICTION/VENUE

2 Jurisdiction is predicated on 28 U.S.C. §§ 1331, 1343. Jurisdiction is not contested.

3 Venue is proper pursuant to 28 U.S.C. § 1391(b). Venue is not contested.

4 II. JURY

5 Both parties have demanded a jury trial. The jury will consist of eight or nine jurors.

6 III. UNDISPUTED FACTS

7 1. On February 11, 2019, plaintiff was arrested and incarcerated at Sutter County Jail  
8 for violation of probation stemming from an altercation that occurred in a bar in  
9 2017 while he working as a bouncer. Plaintiff admitted to his violation of the  
10 conditions of his probation on February 28, 2019.

11 2. There was no report by plaintiff at the time of his intake into the Sutter County Jail  
12 of any pain or discomfort with his ears or at all.

13 3. On February 20, 2019, an Initial Health History and Physical Exam was performed  
14 and there was no report of any medical issue or complaint by plaintiff, including  
15 no report of a history of ear infections.

16 4. On February 26, 2019, plaintiff completed a Sutter County Jail Inmate Request for  
17 Medical Attention stating “Major ear infection. Throbbing and pressure.”

18 5. On February 27, 2019, plaintiff filled out a jail inmate request form stating, “I need  
19 medical attention ASAP. I got a bad infection in my ear. It’s [sic] pain is going to  
20 my temple and down my neck. Please Help Me.” Plaintiff’s aunt called the jail on  
21 February 27, 2019, reporting that plaintiff was complaining of an earache; she  
22 reported that he gets them frequently with severe symptoms and pain. Plaintiff  
23 had his vital signs taken by a medical assistant and he was then seen by FNP Doris  
24 Brown.

25 6. Later that day plaintiff was seen by Doris Brown, FNP. FNP Brown noted that  
26 plaintiff reported he had right sided ear pain since childhood and that his right ear  
27 had been hurting over the past three days and was getting worse. There was no  
28 drainage from the ear, no runny nose, no fever, cough, shortness of breath or chest

1 pain. Plaintiff was crying during the examination. The tympanic membrane in the  
2 right ear was not visible and FNP Brown noted the canal was swollen but there  
3 was no drainage. Plaintiff was diagnosed with an inner and outer ear infection.  
4 FNP Brown took samples from the ear and submitted them for culture and  
5 sensitivity testing. Plaintiff was placed on Cipro by FNP Brown.

6 7. That night, an incident report by Officer Hellwig stated that plaintiff used the  
7 intercom to inform her that he was having severe pain in his right ear. Officer  
8 Hellwig responded and noted plaintiff was crying and his whole body was shaking.  
9 Plaintiff stated he had an ear infection and felt as if his ear and head were going to  
10 explode. Officer Hellwig stated that it appeared plaintiff was in severe pain.

11 8. Officer Hellwig reported she contacted medical staff and advised them about  
12 plaintiff's condition, and they responded, by stating he had already been seen by  
13 medical staff earlier that day.

14 9. On February 28, 2019 4:15 am, Officer Hellwig again noted that Plaintiff was  
15 crying, sweating, and shaking. Plaintiff stated his ear was also bleeding. Officer  
16 Hellwig again contacted medical staff, and they declined to see plaintiff. Officer  
17 Hellwig then spoke with Sergeant Garcia. Sergeant Garcia then contacted medical  
18 staff and Officer Hellwig contacted medical staff again. Medical staff responded  
19 that they would not come see plaintiff, but would see him if he was brought to  
20 them.

21 10. Plaintiff was brought to medical on February 28, 2019, complaining of right ear  
22 pain. At 4:59 am, plaintiff was brought to medical staff, approximately 45 minutes  
23 after Officer Hellwig initially noted plaintiff was in distress that morning. He was  
24 crying and grimacing, with 10/10 ear pain. Vitals were taken and contact was  
25 made with FNP Brown. FNP Brown added Tylenol #3 (Codeine) to be given  
26 "stat" and an appointment with Dr. Matthew Foskey was made for "today."

27 11. Plaintiff was seen by Dr. Foskey on February 28, 2019, and Dr. Foskey noted that  
28 plaintiff was feeling a little better. Plaintiff had no fever, chills or headache, and

1 Dr. Foskey reported that plaintiff stated that his family had the same chronic ear  
2 infection that had been resolved after they had their tonsils and adenoids removed.  
3 Plaintiff reported he had not had such surgical removal himself.

4 12. Dr. Foskey noted moderate edema/erythema and serous discharge and was unable  
5 to visualize the tympanic membrane. The plan was to continue the oral and topical  
6 antibiotics and for Mr. Harkins to be seen by an ENT specialist after release from  
7 jail.

8 13. FNP Brown saw plaintiff again on March 1, 2019. Plaintiff was crying about pain  
9 in in his ear that was keeping him awake at night and that he had been told by a  
10 doctor that he, plaintiff, needed to have his tonsils and adenoids removed. Plaintiff  
11 was asking to be taken to the hospital for the removal of his tonsils and adenoids.  
12 Plaintiff was crying, sitting on the examination table, sweating, asking for pain  
13 medication for his ear. Plaintiff denied fever, chills, nausea, vomiting or facial  
14 pain at the time of this exam. The right ear canal had mild erythema/edema with  
15 serous discharge and the tympanic membrane could not be visualized. The  
16 treatment plan was to continue the antibiotics along with Tylenol and Benadryl.

17 14. On March 2, 2019, plaintiff filled out a Request for Medical Attention Form.  
18 Plaintiff stated his aunt called his primary doctor, who stated plaintiff needed to  
19 have medication every four to six hours as needed to keep the inflammation down.  
20 Plaintiff stated that he had pain and throbbing in his ear because his ear canal  
21 would swell closed and trap the infection behind the ear drum. Plaintiff stated the  
22 inflammation would cause his ear drum to erupt and even possibly cause plaintiff  
23 to go deaf due to the pressure not being released. Plaintiff requested on the Form  
24 for CFMG/Wellpath to contact Ampla Health of Rideout Hospital and ask for Dr.  
25 Schneider. There is no record of anyone from CFMG/Wellpath calling Ampla  
26 Health or Rideout. Plaintiff was not seen by a provider in response to this Request  
27 for Medical Attention; however, he continued to be seen by the nurses at the Jail.

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1 There is no record of plaintiff having been seen by Dr. Schneider prior to the time  
2 plaintiff arrived at the jail.

3 15. On March 3, 2019, plaintiff's girlfriend, Krista Culver, called the jail and was  
4 advised that she needed to speak with the jail medical manager. Ms. Culver called  
5 again on March 4, 2019, and did speak with Heather Bassett, RN, the jail Health  
6 Services Administrator. RN Bassett was told that plaintiff's ear infection was  
7 chronic and that he had previously been told to follow up with an ENT for possible  
8 extraction of his tonsil and adenoids but that Mr. Harkins had not followed up on  
9 that recommendation. RN Bassett was also told that Ms. Culver had spoken with  
10 plaintiff's main doctor two days ago and that the doctor had said that the only  
11 treatment that would work for Mr. Harkins was high doses of strong antibiotics  
12 and ear drops.

13 16. RN Bassett asked for the name of the main doctor and was told it was a doctor at  
14 the last urgent care clinic where plaintiff had been seen and that although Ms.  
15 Culver did not have the name of the doctor, she could get the name for RN Bassett.  
16 There is no record of Ms. Culver ever calling the jail back to provide the name of  
17 the doctor to the jail.

18 17. On March 4, 2019, plaintiff filed a Sutter County Jail Inmate Grievance stating "I  
19 have had an ear ach[e] and in terrible pain with ear bleeding. All I am given for  
20 this is 2 Ibuprofen in 24 hours. This med is to be given be given between 4-6 hours  
21 a day. I keep asking for help but no one wants to do so. I am up all night with  
22 pain. Please help me. My family is getting a lawyers [sic] advice."

23 18. Plaintiff was seen again by FNP Brown on March 7, 2019. On examination,  
24 plaintiff had severe yellow, foul smelling drainage from his right ear, and plaintiff  
25 stated he noticed the discharge on his bed sheets in the morning. Pain was still  
26 present. Ms. Brown could still not see plaintiff's right ear drum. Ms. Brown  
27 stated she would follow up Monday or sooner as necessary. Ms. Brown further  
28 stated plaintiff needed to see an ENT upon release. Plaintiff had no elevated

temperature nor any chills. Plaintiff was prescribed Cipro ear drops three times a day.

19. On March 8, 2019, plaintiff filled out a Sutter County Jail Inmate Grievance Form stating, “This is my 2nd try at getting help for my ear. No one seems to understand the pain I am in. Again I am asking for help. What do I have to do to get the proper help I need? The ibuprofen is not working. I will continue to file these grievance forms until I get help.”

20. On March 11, 2019, plaintiff filled out another Request for Medical Attention Form stating, “I have a migraine behind my ears and temples, sinus infection.”

21. On March 13, 2019, plaintiff was still requesting to be sent out to an ENT. CFMG/Wellpath staff member Sarah Dickinson wrote a note on plaintiff’s chart stating: “Called Rideout ENT and spoke with Nat. Asked about scheduling patient an appointment for after his release and she stated he’d need a referral from his outside provider since he has Medi-Cal. If the referral came from CFMG/Wellpath, the bill would come here as we’re the referring provider.”

22. On or about March 17, 2019, plaintiff informed Officer Weatherup that he had serious medical issues, and could not get out of bed as he was freezing, hyperventilating, and needed to go to the hospital.

23. Later on March 17, 2019, Officer Villegas stated in a report, “Inmates came from Room 1 and stated Inmate Harkins was not looking good at all.” Officer Villegas noted plaintiff was sweating and shaking. Plaintiff informed medical staff that he had “gone blind” could no longer see and had been losing sight for the last three days. Plaintiff was transferred to an individual sobering cell where he was put under medical observation. Video footage reveals him falling to the floor. Sutter officers and CFMG/Wellpath responded and plaintiff was not verbally responsive. Plaintiff was then transferred via ambulance to the local emergency room where it was determined plaintiff had an infection that had spread to his brain. It was ultimately discovered that plaintiff was found to have a cholesteatoma, a rare

1 abnormal collection of skin cells deep inside the ear that it is very difficult to  
2 detect that can cause recurrent ear infections.

3 24. Plaintiff was transported by ambulance from the jail to Rideout Hospital in  
4 Marysville, CA. On exam, plaintiff's skin was diaphoretic (excessive sweating),  
5 his right ear was draining copious pus, and his ear drum could not be visualized.  
6 A CT scan showed an intracranial abscess. Plaintiff also had a fever.

7 25. The staff at Rideout determined that he needed a higher level of care than what  
8 could be provided at their facility. He was transported by helicopter via REACH  
9 to San Juan Mercy Hospital in Sacramento where he remained hospitalized until  
10 April 20, 2109 when he was transferred to UCSF for additional surgeries. At San  
11 Juan Mercy Hospital, Plaintiff was seen by Alex Nee, M.D. who noted Plaintiff's  
12 history including otitis externa, treatment with Cipro, which did not improve his  
13 symptoms. He was found to have a recurrent right ear infection with mastoiditis  
14 and possible intracranial abscess, passive venous thrombosis with venous infarct,  
15 brain compression with clinical significance and obstructive hydrocephalus with  
16 acute respiratory failure.

17 26. On March 26, 2019, Joshua Lucas, M.D., performed a right supratentorial and  
18 infratentorial craniotomy for evacuation of epidural and intracerebral abscesses.  
19 He continued to have a right epidural abscess, right occipital lobe abscess, and  
20 right cerebellar abscess.

21 27. Due to an ongoing infection, on April 3, 2019, Marc Cabanne, D.O., performed a  
22 craniotomy for infection supratentorial and infratentorial with microscope,  
23 stereotactic navigation, Duragen duraplasty and external cavitory drain. Plaintiff  
24 was kept intubated overnight.

25 28. April 5, 2019, Jonathan Sykes, M.D., noted the fact that the otolaryngologic needs  
26 of plaintiff were outside the scope of physicians at Mercy San Juan, and that  
27 plaintiff needed a referral to a tertiary university center neuro-otology  
28 subspecialists and neurosurgical availability. Plaintiff started PT/OT.

- 1           29. Plaintiff was transferred to UCSF on April 20, 2019 for a mastoidectomy. ID was  
2           consulted for antibiotic management. He remained there for 5 days.
- 3           30. On April 22, 2019, Jeffrey Sharon, M.D., performed: 1) Tympanoplasty with  
4           mastoidectomy (canal wall down) without ossicular chain reconstruction, 2)  
5           Meatoplasty, 3) Monitoring of craniofacial nerve for 3 hours with use of binocular  
6           operating microscope for microdissection. Plaintiff additionally underwent  
7           removal of an infected cholesteatoma at this time.
- 8           31. After his tympanoplasty with CWD mastoidectomy and removal of infected  
9           cholesteatoma 4/22/2019, he was continued on IV Unasyn, Keppra 500 mg for  
10          seizure prophylaxis and MS Contin scheduled for pain. Plaintiff started physical  
11          therapy.
- 12          32. On April 25, 2019, plaintiff was discharged home with a double lumen PICC line.  
13          He was discharged home to his house with Ms. Culver, who was giving him IV  
14          antibiotics and doing full-time care. He got an emergency medical clearance to go  
15          home. He had a home health nurse that helped Ms. Culver with the antibiotics.  
16          Ms. Culver assisted with the wound care of the craniotomy site.
- 17          33. April 30, 2019, plaintiff had an outpatient visit with Craig Rhoades, P.A., and was  
18          referred to a neurologist and infectious disease specialist. He continued Keppra  
19          and oxycodone.
- 20          34. Following plaintiff's discharge from UCSF, he continued to see healthcare  
21          providers for follow-up regarding pain, post-acute right mastoiditis and  
22          intracranial abscess surgery. This included management of pain medications.  
23          Plaintiff reported loss of peripheral vision, dizziness, ataxia, headaches, fatigue,  
24          memory changes, and bilateral lower extremity weakness. He additionally had to  
25          return to the emergency department on June 18, 2019, due to swelling to his right  
26          scalp surgical site and possible infection. He also saw a neurosurgeon for  
27          worsening pain at the site of his mastoidectomy, two psychotherapists for  
28          depression, a physical therapist for ongoing back pain, an optometrist for loss of

peripheral vision, and a neurologist for continued headaches and difficulty coping with the sequelae of his infection.

IV. DISPUTED FACTUAL ISSUES

1. To what extent the standard of care was breached by defendants.
2. Whether defendants were deliberately indifferent to plaintiff's serious medical needs.
3. Whether plaintiff has permanent brain damage as a result of the infections.
4. Whether plaintiff is legally blind as a result of the infections.
5. Whether plaintiff has permanent balance problems as a result of the infections.
6. Whether plaintiff has permanent major hearing loss as a result of the infections.
7. Whether plaintiff has permanent neurological problems as a result of the infections.
8. Whether plaintiff will need lifetime attendant care.
9. Whether plaintiff is not currently employable.
10. The extent of the future care required by plaintiff.

V. DISPUTED EVIDENTIARY ISSUES/MOTIONS IN LIMINE

The parties have not yet filed motions *in limine*. The court does not encourage the filing of motions *in limine* unless they are addressed to issues that can realistically be resolved by the court prior to trial and without reference to the other evidence which will be introduced by the parties at trial. The parties anticipate filing the motions *in limine* below. Any motions *in limine* counsel elects to file shall be filed no later than **21 days before trial**. Opposition shall be filed no later than **14 days before trial** and any replies shall be filed no later than **10 days before trial**. Upon receipt of any opposition briefs, the court will notify the parties if it will hear argument on any motions *in limine* prior to the first day of trial.

Plaintiff's Motions in Limine

1. Motion to exclude irrelevant medical conditions
2. Motion to exclude testimony from Defense Expert Kimberly Pearson, RN
3. Motion to exclude testimony from defense experts

4. Motion to exclude police reports, probation documents, and intricate details regarding underlying criminal case and convictions
5. Motion to exclude prior bad acts of plaintiff
6. Motion to exclude evidence or argument of any insurance of other collateral source
7. Motion to exclude any opinions from defense contesting plaintiff's inability to work
8. Motion to exclude defense economist response regarding plaintiff's future loss of earning capacity and loss of income claims
9. Motion to exclude irrelevant history of ear infections
10. Motion to exclude unsupported claims of extensive history ear infections
11. Motion to exclude defense experts' specific unsupported factual narratives

Defendant's Motions *in Limine*

1. Motion to exclude evidence, argument or testimony of subsequent remedial measures taken by defendants Sutter County or Wellpath Management, Inc.
2. Motion to exclude evidence or testimony concerning plaintiff's girlfriend's emotional distress attributed to the events and plaintiff's injuries
3. Motion to exclude evidence of other lawsuits against defendants Sutter County and/or Wellpath Management, Inc.
4. Motion to preclude evidence or argument that insurance may pay some portion of any judgment against the defendants
5. Motion to preclude evidence or argument that the Wellpath entities may pay some portion of any judgment against the individual defendants
6. Motion to preclude any witness from opining as to the amount of an appropriate punitive damages award
7. Motion to limit testimony from plaintiffs' experts to reports and deposition testimony
8. Motion to exclude personal preferences of treatment of plaintiff's expert witnesses

9. Motion to exclude testimony of plaintiff or lay witnesses from testifying regarding medical matters
10. Motion to exclude alleged acts of negligence and/or deliberate indifference which were not the cause of harm to plaintiff
11. Motion to exclude opinions of plaintiff's expert Dr. McMunn that defendants' expert Dr. Joshua is unqualified to render opinions as to the standard of care of nursing
12. Motion to exclude opinions of plaintiff's expert Dr. McMunn rendering any opinions as to the standard of care as to medical doctors or physicians
13. Motion to limit testimony of plaintiff's expert Dr. McMunn to rebuttal opinions

VI. SPECIAL FACTUAL INFORMATION

Pursuant to Local Rule 281(b)(6), the parties have provided the following special factual information that pertains to this action:

Plaintiff was incarcerated at Sutter County Jail in February of 2019. During his incarceration he developed a severe ear infection. From February 26, 2019 through March 17, 2019, plaintiff repeatedly requested medical care for his ear infection. Over the time he was requesting medical care, plaintiff's ear infection spread into his brain and formed abscesses. He then began to deteriorate neurologically and was unresponsive on March 17, 2019. Plaintiff was then sent to the emergency room. Plaintiff claims the standard of care was repeatedly violated and defendants were deliberately indifferent to his medical needs.

Defendants will claim the standard of care was not violated and defendants were not subjectively deliberately indifferent.

Plaintiff was 30 years old at the time of the incident and will be 33 years old at the time of trial. Plaintiff suffered from a right ear infection with mastoiditis, intracranial abscess, passive venous thrombosis with venous infarct, brain compression with clinical significance and obstructive hydrocephalus with acute respiratory failure. On March 17, 2019, plaintiff was first taken to Rideout Hospital where the staff recognized that plaintiff needed a higher level of care than what could be provided at their facility. Plaintiff was transferred by helicopter to San Juan Mercy Hospital in Sacramento where he was remained in the ICU until April 20, 2019, when he was transferred to UCSF hospital for additional surgeries.

Plaintiff's extensive injuries required two craniotomies. The first, on March 26, 2019, Plaintiff underwent a right supratentorial and infratentorial craniotomy for evacuation of epidural and

1 intracerebral abscess. Plaintiff's infection was so severe it would  
2 not heal and plaintiff underwent the second craniotomy on April 3,  
3 2019, for infection supratentorial and infratentorial with  
4 microscope, stereotactic navigation, DuraGen duraplasty and  
external cavitory drain. After the second craniotomy, plaintiff's  
physicians began to source a referral location for plaintiff's  
continued care.

5 Plaintiff is legally blind, has major permanent hearing loss, and has  
6 permanent balance problems. Plaintiff has major neurological  
7 deficits and claims that he cannot ever be employed. Plaintiff  
alleges that Plaintiff requires lifetime attendant care.

8 Plaintiff has \$270,000 in past paid medical bills. Plaintiff has a  
9 \$1,414,437 loss of future earning capacity claim. Plaintiff has a life  
care plan of \$16,053,574 - \$18,481,961. Defendants' expert's life  
care plan is values at \$1,926,948-\$2,196,287.

10 Plaintiff's general damages are not capped in a deliberate  
11 indifference case. In the event of a medical malpractice case,  
Plaintiff's general damages are capped at \$250,000.

## 12 VII. RELIEF SOUGHT

13 1. Plaintiff seeks general damages, special damages, and punitive damages against  
14 defendants.

15 2. Plaintiff also seeks to recover attorneys' fees under 42 U.S.C. § 1988.

## 16 VIII. POINTS OF LAW

17 The claims and defenses arise under both federal and state law. Plaintiff's claims brought  
18 under 42 U.S.C. § 1983 for deliberate indifference to serious medical needs and failure to protect  
19 from harm in violation of the Fourteenth and Eighth Amendments are brought against all  
20 defendants. Plaintiff's claims brought under 42 U.S.C. § 1983 for inadequate policies, customs,  
21 and/or practices and failure to train/supervise resulting in deprivation of medical care to plaintiff  
22 and failure to protect plaintiff from harm in violation of the Fourteenth and Eighth Amendments  
23 are brought against defendants Sutter County, California Forensics Medical Group, and Wellpath  
24 Management, Inc. Plaintiff's claims for violation of California Government Code § 845.6 and  
25 professional negligence are brought against all defendants.

26 1. The elements of, standards for, and burden of proof in a claim brought under 42  
27 U.S.C. § 1983 for deliberate indifference to serious medical needs and failure to  
28 protect from harm in violation of the Fourteenth Amendment.

2. The elements of, standards for, and burden of proof in a claim brought under 42 U.S.C. § 1983 for deliberate indifference to serious medical needs and failure to protect from harm in violation of the Fourteenth Amendment based on alleged *Monell* liability.
3. The elements of, standards for, and burden of proof in a claim brought under 42 U.S.C. § 1983 for failure to train/supervise resulting in deprivation of medical care and failure to protect from harm in violation of the Fourteenth Amendment.
4. The elements of, standards for, and burden of proof in a claim brought under 42 U.S.C. § 1983 for deliberate indifference to serious medical needs and failure to protect from harm in violation of the Eighth Amendment.
5. The elements of, standards for, and burden of proof in a claim brought under 42 U.S.C. § 1983 for deliberate indifference to serious medical needs and failure to protect from harm in violation of the Eighth Amendment based on alleged *Monell* liability.
6. The elements of, standards for, and burden of proof in a claim brought under 42 U.S.C. § 1983 for failure to train/supervise resulting in deprivation of medical care and failure to protect from harm in violation of the Eighth Amendment.
7. The elements of, standards for, and burden of proof in a claim brought under California Government Code § 845.6.
8. The elements of, standards for, and burden of proof in a professional negligence claim brought under state law.

Trial briefs addressing the points of law implicated by these remaining claims shall be filed with this court no later than **7 days before trial** in accordance with Local Rule 285.

ANY CAUSES OF ACTION OR AFFIRMATIVE DEFENSES NOT EXPLICITLY ASSERTED IN THE PRETRIAL ORDER UNDER POINTS OF LAW AT THE TIME IT BECOMES FINAL ARE DISMISSED, AND DEEMED WAIVED.

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IX. ABANDONED ISSUES

1. Defendants' twenty-nine affirmative defenses.<sup>1</sup>

X. WITNESSES

Plaintiff's witnesses shall be those listed in **Attachment A**. Defendants' witnesses shall be those listed in **Attachment B**. Each party may call any witnesses designated by the other.

A. **The court does not allow undisclosed witnesses to be called for any purpose, including impeachment or rebuttal, unless they meet the following criteria:**

- (1) The party offering the witness demonstrates that the witness is for the purpose of rebutting evidence that could not be reasonably anticipated at the pretrial conference, or
- (2) The witness was discovered after the pretrial conference and the proffering party makes the showing required in paragraph B, below.

B. Upon the post pretrial discovery of any witness a party wishes to present at trial, the party shall promptly inform the court and opposing parties of the existence of the unlisted witnesses by filing a notice on the docket so the court may consider whether the witnesses shall be permitted to testify at trial. The witnesses will not be permitted unless:

- (1) The witness could not reasonably have been discovered prior to the discovery cutoff;
- (2) The court and opposing parties were promptly notified upon discovery of the witness;
- (3) If time permitted, the party proffered the witness for deposition; and
- (4) If time did not permit, a reasonable summary of the witness's testimony was provided to opposing parties.

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<sup>1</sup> Defendant Sutter County asserts eighteen affirmative defenses in its answer. The remaining defendants assert eleven affirmative defenses in their answer. However, defendants have not identified any affirmative defenses as points of law remaining for trial. In their objections to this tentative pretrial order, defendants are instructed to clarify whether all of defendants' affirmative defenses have been abandoned, and if not, which affirmative defenses remain as points of law for purposes of the trial of this case.

XI. EXHIBITS, SCHEDULES, AND SUMMARIES<sup>2</sup>

Plaintiff's exhibits are listed in **Attachment C**. Defendant's exhibits are listed in **Attachment D**. No exhibit shall be marked with or entered into evidence under multiple exhibit numbers, and the parties are hereby directed to meet and confer for the purpose of designating joint exhibits and to provide a list of joint exhibits. All exhibits must be pre-marked as discussed below. At trial, joint exhibits shall be identified as JX and listed numerically, e.g., JX-1, JX-2. Plaintiff's exhibits shall be listed numerically, and defendants' exhibits shall be listed alphabetically.

The parties must prepare three (3) separate exhibit binders for use by the court at trial, with a side tab identifying each exhibit in accordance with the specifications above. Each binder shall have an identification label on the front and spine. The parties must exchange exhibits no later than **28 days before trial**. Any objections to exhibits are due no later than **14 days before trial**. The final exhibits are due **the Thursday before the trial date**. In making any objection, the party is to set forth the grounds for the objection. As to each exhibit which is not objected to, no further foundation will be required for it to be received into evidence, if offered.

**The court does not allow the use of undisclosed exhibits for any purpose, including impeachment or rebuttal, unless they meet the following criteria**

A. The court will not admit exhibits other than those identified on the exhibit lists referenced above unless:

- (1) The party proffering the exhibit demonstrates that the exhibit is for the purpose of rebutting evidence that could not have been reasonably anticipated, or
- (2) The exhibit was discovered after the issuance of this order and the proffering party makes the showing required in paragraph B, below.

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<sup>2</sup> At the final pretrial conference, the parties were instructed to identify their listed exhibits with greater specificity (by date, Bates stamp number, author or other appropriate description) in their objections to this tentative pretrial order in order for the final pretrial order to eliminate any unnecessary disputes over the exhibits that each party intends to offer at trial.

B. Upon the discovery of exhibits after the discovery cutoff, a party shall promptly inform the court and opposing parties of the existence of such exhibits by filing a notice on the docket so that the court may consider their admissibility at trial. The exhibits will not be received unless the proffering party demonstrates:

- (1) The exhibits could not reasonably have been discovered earlier;
- (2) The court and the opposing parties were promptly informed of their existence;
- (3) The proffering party forwarded a copy of the exhibits (if physically possible) to the opposing party. If the exhibits may not be copied the proffering party must show that it has made the exhibits reasonably available for inspection by the opposing parties.

## XII. DISCOVERY DOCUMENTS

Counsel must lodge the sealed original copy of any deposition transcript to be used at trial with the Clerk of the Court no later than **14 days before trial**.

The parties<sup>3</sup> have indicated the intent to use the following discovery documents at trial:<sup>4</sup>

1. Plaintiff's Request for Production of Documents, Set One to Defendant CFMG (dated January 14, 2021);
2. Defendant CFMG's Response to Plaintiff's Request for Production of Documents, Set One (dated April 9, 2021);
3. Defendant CFMG's Supplemental Response to Plaintiff's Request for Production of Documents, Set One (dated May 16, 2021);
4. Defendant CFMG's Further Supplemental Response to Plaintiffs Request for Production of Documents, Set One (dated May 25, 2021);

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<sup>3</sup> In their objections to this pretrial order, the parties are directed to specify which parties intend to use which of the listed discovery documents at trial.

<sup>4</sup> If the parties intend to use deposition transcripts at trial, even for rebuttal, the parties are directed to provide a list of such deposition transcripts in their objections to this tentative pretrial order.

5. Plaintiff's Responses to Sutter County's Special Interrogatories, Set One (dated September 2, 2020);
6. Plaintiff's Responses to Sutter County's Requests for Admission, Set One (dated September 2, 2020);
7. Plaintiff's Responses to Sutter County's Requests for Production of Documents, Set One (dated September 2, 2020);
8. Plaintiff's Supplemental Responses to Sutter County's Request for Production of Documents, Set One (dated January 8, 2021);
9. Plaintiff's Responses to Defendant CFMG's Interrogatories, Set One (dated September 27, 2021);
10. Plaintiff's Responses to Defendant CFMG's Request for Production of Documents, Set One (dated September 27, 2021);
11. Plaintiff's Response to Defendant Officer Laurie Helzer's Interrogatories, Set One (dated April 4, 2022);
12. Plaintiff's Response to Defendant Officer Laurie Helzer's Request for Production of Documents, Set One (dated April 4, 2022);
13. Plaintiff's Response to Defendant Sheriff Brandon Barnes' Interrogatories, Set One (dated April 4, 2022);
14. Plaintiff's Responses to Defendant Sheriff Brandon Barnes' Request for Production of Documents, Set One (dated April 4, 2022);
15. Plaintiff's Responses to Defendant Officer Michael Weatherup's Interrogatories, Set One (dated April 4, 2022);
16. Plaintiff's Responses to Defendant Officer Michael Weatherup's Request for Production of Documents, Set One (dated April 4, 2022);
17. Plaintiff's Responses to Defendant Sergeant Kaitlyn Olson's Interrogatories, Set One (dated April 4, 2022);
18. Plaintiff's Responses to Defendant Sergeant Kaitlyn Olson's Request for Production of Documents, Set One (dated April 4, 2022);

19. Plaintiff's Responses to Defendant Officer Ethan Brooks' Interrogatories, Set One (dated April 4, 2022);
20. Plaintiff's Responses to Defendant Officer Ethan Brooks' Request for Production of Documents, Set One (dated April 4, 2022);
21. Plaintiff's Responses to Defendant Captain Dan Butler's Interrogatories, Set One (dated April 4, 2022);
22. Plaintiff's Responses to Defendant Captain Dan Butler's Request for Production of Documents, Set One (dated April 4, 2022);
23. Plaintiff's Responses to Defendant Former Sergeant Lester Eaton's Interrogatories, Set One (dated April 4, 2022);
24. Plaintiff's Responses to Defendant Former Sergeant Lester Eaton's Request for Production of Documents, Set One (dated April 4, 2022);
25. Plaintiff's Responses to Defendant Sergeant Jose Garcia-Cortes' Interrogatories, Set One (dated April 4, 2022);
26. Plaintiff's Responses to Defendant Sergeant Jose Garcia-Cortes' Request for Production of Documents, Set One (dated April 4, 2022);
27. Plaintiff's Responses to Defendant Sergeant Gloria Hernandez's Interrogatories, Set One (dated April 4, 2022);
28. Plaintiff's Responses to Defendant Sergeant Gloria Hernandez's Request for Production of Documents, Set One (dated April 4, 2022);
29. Plaintiff's Responses to Defendant CFMG's Request for Production of Documents, Set One, Propounded on March 11, 2022 (dated April 11, 2022);
30. Plaintiff's Responses to Defendant CFMG's Interrogatories, Set One, Propounded on March 11, 2022 (dated April 11, 2022).

### XIII. FURTHER DISCOVERY OR MOTIONS

None. Discovery and law and motion are closed under the court's previously issued scheduling order.

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1 XIV. STIPULATIONS

2 The parties stipulate as to the date plaintiff was incarcerated and the date plaintiff was  
3 released from jail.

4 XV. AMENDMENTS/DISMISSALS

5 None.

6 XVI. SETTLEMENT

7 The parties have engaged in mediation twice before Retired Judge Raul A. Ramirez. The  
8 parties have not yet participated in a court-ordered settlement conference. Accordingly, the court  
9 will refer this case to the assigned magistrate judge for the setting of a settlement  
10 conference. Depending on the assigned magistrate judge's settlement conference procedures, the  
11 assigned magistrate judge may hold the settlement conference or may arrange for a different  
12 magistrate judge to hold the settlement conference.

13 XVII. JOINT STATEMENT OF THE CASE

14 The parties have agreed to the following neutral statement of the case to be read to the  
15 prospective jurors:

16 This is a Civil Rights and Medical Malpractice case. Plaintiff  
17 alleges Defendants were deliberately indifferent to his medical  
18 needs and violated the standard of care. Defendants contend they  
were not deliberately indifferent to Plaintiff's medical needs, and  
that they did not violate the standard of care.

19 XVIII. SEPARATE TRIAL OF ISSUES

20 None.

21 XIX. IMPARTIAL EXPERTS/LIMITATION OF EXPERTS

22 None.

23 XX. ATTORNEYS' FEES

24 Plaintiff will seek attorneys' fees and costs if he prevails.

25 XXI. TRIAL PROTECTIVE ORDER AND REDACTION OF TRIAL EXHIBITS

26 None.

27 XXII. MISCELLANEOUS

28 None.

1 XXIII. ESTIMATED TIME OF TRIAL/TRIAL DATE

2 Jury trial is set for October 11, 2023, at 9:00 a.m. in Courtroom 4 before the Honorable  
3 Dale A. Drozd. At this time trial is anticipated to last 15 court days. The parties are directed to  
4 Judge Drozd's Standing Order in Civil Actions available on his webpage on the court's website.

5 Counsel are directed to call Pete Buzo, courtroom deputy, at (916) 930-4016, one week  
6 prior to trial to ascertain the status of the trial date.

7 XXIV. PROPOSED JURY VOIR DIRE AND PROPOSED JURY INSTRUCTIONS

8 The parties shall file any proposed jury *voir dire* **7 days before trial**. Each party will be  
9 limited to fifteen minutes of supplemental jury *voir dire*.

10 The court directs counsel to meet and confer in an attempt to generate a joint set of jury  
11 instructions and verdicts. The parties shall file any such joint set of instructions **14 days before**  
12 **trial**, identified as "Joint Jury Instructions and Verdicts." To the extent the parties are unable to  
13 agree on all or some instructions and verdicts, their respective proposed instructions are due **14**  
14 **days before trial**.

15 Counsel shall e-mail a copy of all proposed jury instructions and verdicts, whether agreed  
16 or disputed, as a Word document to [dadorders@caed.uscourts.gov](mailto:dadorders@caed.uscourts.gov) no later than **14 days before**  
17 **trial**; all blanks in form instructions should be completed and all brackets removed.

18 Objections to proposed jury instructions must be filed **7 days before trial**; each objection  
19 shall identify the challenged instruction and shall provide a concise explanation of the basis for  
20 the objection along with citation of authority. When applicable, the objecting party shall submit  
21 an alternative proposed instruction on the issue or identify which of his or her own proposed  
22 instructions covers the subject.

23 XXV. TRIAL BRIEFS

24 As noted above, trial briefs are due **7 days before trial**.

25 XXVI. OBJECTIONS TO PRETRIAL ORDER

26 Each party is granted **14 days from the date of this order** to file objections to the same.  
27 Each party is also granted **7 days thereafter** to respond to the other party's objections. If no  
28 objections are filed, the order will become final without further order of this court.

1 The parties are reminded that pursuant to Rule 16(e) of the Federal Rules of Civil  
2 Procedure and Local Rule 283 of this court, this order shall control the subsequent course of this  
3 action and shall be modified only to prevent manifest injustice.

4 IT IS SO ORDERED.

5 Dated: March 14, 2023

  
UNITED STATES DISTRICT JUDGE

**ATTACHMENT A**

Plaintiff's Witness List

1. Jeremy Harkins (Plaintiff), c/o Abbey, Weitzenberg, Warren & Emery, 100 Stony Point Road, Ste. 200, Santa Rosa, CA 95401
2. Krysta Culver (Plaintiff's partner), c/o Abbey, Weitzenberg, Warren & Emery, 100 Stony Point Road, Ste. 200, Santa Rosa, CA 95401
3. Melanie Unruh (Plaintiff's aunt), c/o Abbey, Weitzenberg, Warren & Emery, 100 Stony Point Road, Ste. 200, Santa Rosa, CA 95401
4. Willard E. Fee, M.D., (Plaintiff's ENT Expert), 3705 Brandy Rock Way, Redwood City, CA 94061
5. Howard Pitchon, M.D., (Plaintiff's Infection Disease Expert), 435 N. Bedford Drive, Ste. 402, Beverly Hills, CA 90210
6. David M. Mathis, M.D., (Plaintiff's Correctional Medicine Expert), 4107 Casper Way, Napa, CA 94558
7. Jack E. Miller, M.D., (Plaintiff's Neurological Expert), P.O. Box 60, Petaluma, CA 94953
8. Thomas Van Vleet, Ph.D., (Plaintiff's Neuropsych. Expert), 3947 Opal Street, Oakland, CA 94609
9. Mechel Henry, M.D., (Plaintiff's Psychiatric Expert), 1300 Clay Street, Ste. 600, Oakland, CA 94612
10. Diana Bubanja, DPT, (Plaintiff's Life Care Planning Expert), 3478 Buskirk Ave, #335, Pleasant Hill, CA 94523
11. Enrique Vega, MS, (Plaintiff's Vocational Economics Expert), 20700 Ventura Blvd, Ste. 220, Woodland Hills, CA 91364
12. Michael McMunn, DNP (Plaintiff's Standard of Care Correctional Facility Expert), 4110 Lakeside Blvd, Monroe, GA 30655
13. Christopher Kuiken (Former Inmate with Plaintiff at Sutter County Jail), 2106 Holcomb Ave., Yuba City, CA 95993

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- 1 14. Daniel Swars (Former Inmate with Plaintiff at Sutter County Jail), 737 Lask Drive, Yuba  
2 City, CA 95991
- 3 15. Jeffrey Looney (Inmate at Sutter County Jail), c/o Sutter County Jail, 1077 Civic Center  
4 Blvd., Yuba City, CA 95993
- 5 16. John George (Inmate at Sutter County Jail), c/o Sutter County Jail, 1077 Civic Center  
6 Blvd., Yuba City, CA 95993
- 7 17. James Choate (Inmate at Sutter County Jail), c/o Sutter County Jail, 1077 Civic Center  
8 Blvd., Yuba City, CA 95993
- 9 18. Chris Mertens (Inmate at Sutter County Jail), c/o Sutter County Jail, 1077 Civic Center  
10 Blvd., Yuba City, CA 95993
- 11 19. Brent Gordon, M.D. - Rideout Memorial Hospital Emergency Room Physician, 726 4th  
12 St., Marysville, CA 95901
- 13 20. Hector Lopez, M.D. - Rideout Memorial Hospital Emergency Room Physician, 726 4th  
14 St., Marysville, CA 95901
- 15 21. John Krol, M.D. - Rideout Memorial Hospital Radiologist, 726 4th St., Marysville, CA  
16 95901
- 17 22. Rahul Gupta, M.D. - Rideout Memorial Hospital Radiologist, 726 4th St., Marysville, CA  
18 95901
- 19 23. Binh Quach, MD - Rideout Memorial Hospital Radiologist, 726 4th St., Marysville, CA  
20 95901
- 21 24. Howard Fan, M.D. - Mercy San Juan Hospital Physician, 6501 Coyle Ave., Carmichael,  
22 CA 95608
- 23 25. Jacob Bair, D.O. - Mercy San Juan Hospital Physician, 6501 Coyle Ave., Carmichael, CA  
24 95608)
- 25 26. Robert Zimmerman, M.D. - Mercy San Juan Hospital Physician, 6501 Coyle Ave.,  
26 Carmichael, CA 95608
- 27 27. Howard Fan, M.D. - Mercy San Juan Hospital Physician, 6501 Coyle Ave., Carmichael,  
28 CA 95608

- 1 28. Brandon Whann, PA - Mercy San Juan Hospital Physician, 6501 Coyle Ave., Carmichael,  
2 CA 95608
- 3 29. Daniel Jaramillo, PA-C - Mercy San Juan Hospital Physician, 6501 Coyle Ave.,  
4 Carmichael, CA 95608
- 5 30. Alex Nee, M.D. - Mercy San Juan Hospital Physician, 6501 Coyle Ave., Carmichael, CA  
6 95608
- 7 31. Jesse Babbitz, M.D. - Mercy San Juan Hospital Physician, 6501 Coyle Ave., Carmichael,  
8 CA 95608
- 9 32. Joshua Lucas, M.D. - Mercy San Juan Hospital Physician, 6501 Coyle Ave., Carmichael,  
10 CA 95608
- 11 33. Marc Cabanne, M.D. - Northern CA. NeuroSpine Institute and Mercy San Juan Hospital  
12 Physician, 6501 Coyle Ave., Carmichael, CA 95608
- 13 34. Kiersten Riedler, M.D. - Mercy San Juan Hospital Physician, 6501 Coyle Ave.,  
14 Carmichael, CA 95608
- 15 35. Jonathan Sykes, M.D. - Mercy San Juan Hospital Physician, 6501 Coyle Ave.,  
16 Carmichael, CA 95608
- 17 36. Jeremy Kadish, DO - Mercy San Juan Hospital Physician, 6501 Coyle Ave., Carmichael,  
18 CA 95608
- 19 37. Craig Rhoades, PA - Harmony Health Medical Clinic Physician, 1908 N. Beale Rd.,  
20 Marysville, CA 95901
- 21 38. Theresa Bowell, LCSW - Harmony Health Medical Clinic, 1908 N. Beale Rd.,  
22 Marysville, CA 95901
- 23 39. Harpreet Johl, M.D. - Harmony Health Medical Clinic, 1908 N. Beale Rd., Marysville,  
24 CA 95901
- 25 40. Jagmohan Thiara, Psychiatric NP - Harmony Health Medical Clinic, 1908 N. Beale Rd.,  
26 Marysville, CA 95901
- 27 41. Jessica Jane Briggs, M.D. - UCSF Infection Disease Physician, 505 Parnassus Ave., San  
28 Francisco, CA 94143

- 1 42. Jeffrey Sharon, M.D. - UCSF Neurologist, , 505 Parnassus Ave., San Francisco, CA
- 2 94143
- 3 43. Abel P. David, M.D. - UCSF Otolaryngologist, 505 Parnassus Ave., San Francisco, CA
- 4 94143
- 5 44. Elizabeth Shuman, M.D. - UCSF Otolaryngologist, 505 Parnassus Ave., San Francisco,
- 6 CA 94143
- 7 45. Ramin Morshed, M.D. - UCSF Neurologist, , 505 Parnassus Ave., San Francisco, CA
- 8 94143
- 9 46. Wendy K. Lyle, Ph.D - Psychologist, 438 Colusa Ave, Ste. A, Yuba City, CA 95991
- 10 47. Marina Rocchi, M.D. - Chico Eye Center Optometrist, 3401 Esplanade, Chico, CA 95973
- 11 48. Himaja Peddi, M.D. - Neuroradiology, Sutter Imaging Sacramento, 3161 L Street,
- 12 Sacramento, CA 95816
- 13 49. Custodian of Medical and Billing Records - UCSF Medical Center, 6425 Christie Ave.,
- 14 Emeryville, CA 94608
- 15 50. Custodian of Medical and Billing Records - Mercy San Juan Medical Center, 10540
- 16 White Rock Rd., Ste. 150, Rancho Cordova, CA 95670
- 17 51. Custodian of Medical and Billing Records - Rideout Memorial Hospital, 726 4<sup>th</sup> Street,
- 18 Marysville, CA 95901
- 19 52. Custodian of Medical and Billing Records - Harmony Health Medical Clinic, 1908 N.
- 20 Beale Rd., Ste. E, Marysville, CA 95901
- 21 53. Custodian of Medical and Billing Records - Bi-County Ambulance, 1700 Poole Blvd.,
- 22 Yuba City, CA 95993
- 23 54. Custodian of Medical and Billing Records - Reach Air Medical Services, P.O. Box 930,
- 24 West Plains, MO 65775
- 25 55. Custodian of Medical and Billing Records - Northern California NeuroSpine Institute,
- 26 1625 Creekside Drive, Ste. 200, Folsom, CA 95630
- 27 56. Custodian of Medical and Billing Records - California Forensic Medical Group/WellPath
- 28 at Sutter County Jail, 1077 Civic Center Blvd., Yuba City, CA 95993

- 1 57. Custodian of Records - Sutter County Jail, 1077 Civic Center Blvd., Yuba City, CA 95993
- 2 58. Alfred Joshua, M.D. - Defense Expert, P.O. Box 5000 PMB 525, Rancho Santa Fe, CA
- 3 92067
- 4 59. Derrick P. Olzack, PA-C - Defense Expert, 2092 Peace Court, Atwater, CA 95301
- 5 60. Edwin C. Amos, M.D. - Defense Expert, 2021 Santa Monica Blvd., Ste. 525E, Santa
- 6 Monica, CA 90404
- 7 Kimberly Pearson, MHA - Defense Expert, 22 Gallinas Dr., Spring Creek, NV 89815
- 8 61. Erik Volk - Defense Expert, 1999 Harrison Street, Ste. 1440, Oakland, CA 94612
- 9 62. Joshua Skolnick, M.D. - Defense Expert, 1501 Trousdale Drive, 3rd Floor, Burlingame,
- 10 CA 94010
- 11 63. Howard J. Friedman, Ph.D - 1855 San Miguel Dr., Ste. 23, Walnut Creek, CA 94596
- 12 64. Raymond Herr, M.D. - Person Most Knowledgeable of CFMG Raymond Herr, M.D.
- 13 65. Matthew Foskey, DO (Defendant) - Physician for CFMG/Sutter County Jail
- 14 66. Doris Brown, FNP (Defendant) - Family Nurse Practitioner for CFMG/Sutter County Jail
- 15 67. Esther Tupaz, LVN - Licensed Vocational Nurse for CFMG/Sutter County Jail
- 16 68. Heather Bassett, RN - Registered Nurse for CFMG/Sutter County Jail
- 17 69. Lisa Rogers, RN (Defendant) - Registered Nurse for CFMG/Sutter County Jail
- 18 70. Sarah Dickinson, Medical Assistant (Defendant) - Medical Assistant for CFMG/Sutter
- 19 County Jail
- 20 71. Sherril McGuire, RN (Defendant) - Former Registered Nurse for CFMG/Sutter County
- 21 Jail
- 22 72. Officer Harrison Hellwig, (Defendant) - Correctional Officer for Sutter County Jail
- 23 73. Officer Ethan Brooks, (Defendant) - Correctional Officer for Sutter County Jail
- 24 74. Officer Michael Weatherup, (Defendant) - Correctional Officer for Sutter County
- 25 Jail
- 26 75. Officer Gloria Hernandez Espana, (Defendant) - Correctional Officer for Sutter County
- 27 Jail
- 28 76. Officer Walter Villegas, (Defendant) - Correctional Officer for Sutter County Jail

**ATTACHMENT B**

Defendants' Witness List

1. Custodian of Medical Records -California Forensic Medical Group, at Sutter County Jail, 1077 Civic Center Blvd., Yuba City, CA 95993
2. Alfred Joshua, M.D., Defense Medical and Procedural Expert Witness P.O. Box 5000 PMB 525, Ranchi Santa Fe, CA 92067
3. Kimberly Pearson, MHA, MBA, RN, CCHP, Defense Nursing and Policy and Procedure Expert, 355 W. Mesquite Blvd., Ste D 30-472, Mesquite, NV 89027
4. Dr. Edwin C. Amos, M.D., Defense Medical Consultant, 2021 Santa Monica Blvd., Ste. 525E, Santa Monica, CA 90404
5. Erik Volk, Defense Expert Witness, 1999 Harrison Street, Ste. 1440, Oakland, CA 94612
6. Howard Friedman, Ph.D. Defense Expert Witness, 1855 San Miguel Drive., Ste. 23, Walnut Creek, CA 94596
7. Derrick P. Olzack, PA-C, Defense Expert Witness, 2092 Peace Court, Atwater, CA 95301
8. Raymond Herr, M.D., Person Most knowledgeable for CFMG (c/o Paul Cardinale, Medical Defense Law Group, 3800 Watt Avenue, Suite 245, Sacramento CA 95821)
9. Matthew Foskey, DO, (Defendant) Medical Physician for CFMG (c/o Paul Cardinale, Medical Defense Law Group, 3800 Watt Avenue, Suite 245, Sacramento CA 95821)
10. Doris Brown, FNP, (Defendant) Family Nurse Practitioner, CFMG (c/o Paul Cardinale, Medical Defense Law Group, 3800 Watt Avenue, Suite 245, Sacramento CA 95821)
11. Heather Bassett, RN CFMG/Sutter, (c/o Paul Cardinale, Medical Defense Law Group, 3800 Watt Avenue, Suite 245, Sacramento CA 95821)
12. Lisa Rogers, RN (Defendant) CFMG/Sutter (c/o Paul Cardinale, Medical Defense Law Group, 3800 Watt Avenue, Suite 245, Sacramento CA 95821)
13. Sarah Dickinson, MA, CFMG/Sutter (c/o Paul Cardinale, Medical Defense Law Group, 3800 Watt Avenue, Suite 245, Sacramento CA 95821)
14. Sherril McGuire, RN (defendant) CFMG/Sutter (c/o Paul Cardinale, Medical Defense Law Group, 3800 Watt Avenue, Suite 245, Sacramento CA 95821)

- 1 15. Genevieve Lewis, RN (Defendant) CFMG/Sutter, (c/o Paul Cardinale, Medical Defense  
2 Law Group, 3800 Watt Avenue, Suite 245, Sacramento CA 95821)
- 3 16. Esther Tupaz, LVN, CFMG/Sutter (c/o Paul Cardinale, Medical Defense Law Group,  
4 3800 Watt Avenue, Suite 245, Sacramento CA 95821)
- 5 17. Custodian of Records, Sutter County (Defendant) (c/o Paul Cardinale, Medical Defense  
6 Law Group, 3800 Watt Avenue, Suite 245, Sacramento CA 95821)
- 7 18. Brenda Franks, LMFT, CFMG/Sutter (c/o Paul Cardinale, Medical Defense Law Group,  
8 3800 Watt Avenue, Suite 245, Sacramento CA 95821)
- 9 19. Officer Michael Weatherup, Sutter County (c/o Paul Cardinale, Medical Defense Law  
10 Group, 3800 Watt Avenue, Suite 245, Sacramento CA 95821)

**ATTACHMENT C**

Plaintiff's Exhibit List

1. Plaintiff's Entire CFMG Medical Chart
2. 2/24/19 Discipline Report
3. 2/26/19 Medical Request Form
4. 2/27/19 Inmate Request Form
5. 2/27/19 Nightshift Briefing Report
6. 2/28/19 Dayshift Briefing Report
7. 2/28/19 Incident Report
8. 3/02/19 Medical Request Form
9. 3/04/19 Inmate Grievance Form
10. 3/06/19 Inmate Grievance Form
11. 3/11/19 Medical Request Form
12. 3/17/19 Sutter County Jail Email
13. 3/17/19 Discipline Report
14. 3/17/19 Dayshift Briefing Report
15. 3/17/19 Nightshift Briefing Report
16. 3/17/19 Observation Cell Form
17. 3/17/19 Incident/Medical Report Form by Olson
18. 3/17/19 Incident/Medical Report Form by Officer Villegas
19. 3/17/19 Incident/Medical Report Form by Officer Weatherup
20. 3/18/19 Supplemental Incident/Medical Report Form by Officer Weatherup
21. 3/17/19 Jail Videos (2) (COUNTY\_000932-000933)
22. 3/19/19 Sutter County Jail Email to Bassett
23. 3/19/19 Email from Sgt. Eaton Recognizing Officer Accomplishment
24. Sutter County Jail Recorded Phone Calls (57)
25. Sutter County Jail Audio Logs
26. Plaintiff's Medical Records - Rideout Hospital (relevant portions)

- 1 27. Plaintiff's Medical Records - Mercy San Juan (relevant portions)
- 2 28. Plaintiff's Medical Records - UCSF (relevant portions)
- 3 29. Plaintiff's Medical Records - California Neurospine Institute (relevant portions)
- 4 30. Plaintiff's Medical Records - Chico Eye Center (relevant portions)
- 5 31. Plaintiff's Medical Records - Sierra Injury and Sports Rehab (relevant portions)
- 6 32. Plaintiff's Medical Records - Harmony Health Medical Clinic (relevant portions)
- 7 33. Plaintiff's Medical Records - Yuba City Advanced Imaging Center (relevant portions)
- 8 34. Plaintiff's Medical Records - Enloe Medical Center (relevant portions)
- 9 35. Plaintiff's Medical Records - Sutter Imaging Sacramento (relevant portions)
- 10 36. Plaintiff's Medical Records - REACH Air Transport
- 11 37. Plaintiff's Medical Records - Bi-County Ambulance
- 12 38. Plaintiff's Radiology Imaging and Reports
- 13 39. Photographs of Plaintiff
- 14 40. CMCG Employee Handbook February 2018
- 15 41. CMCG Sutter County Adult Facilities Policy and Procedures Manual, February 2019
- 16 42. CMCG Policy and Procedure Manual 2018–2019
- 17 43. CMCG Registered Nurse Protocols, July 2018
- 18 44. CFMG Generic County Adult Standardized Procedures for Registered Nurses, May 2017
- 19 45. Sutter County Sheriff's Jail Operations Manual, January 2019
- 20 46. Sutter County Sheriff's Jail Operations Manual, March 22, 2018
- 21 47. Sutter County Jail Booking Documents
- 22 48. Sutter County Jail Admission Evaluation
- 23 49. Sutter County Sheriff's Department Records regarding Plaintiff's incarceration
- 24 50. Plaintiff's Expert Enrique Vega's Curriculum Vitae, Vocational Economics Assessment  
25 Report and Economic Analysis Report
- 26 51. Plaintiff's Expert Diana Bubanja's Curriculum Vitae and Life Care Plan
- 27 52. Plaintiff's Expert Howard Pitchon, M.D.'s Curriculum Vitae and Expert Report
- 28 53. Plaintiff's Expert Mechel Henry, M.D.'s Curriculum Vitae and Expert Report

- 1 54. Plaintiff's Expert Jack E. Miller, M.D.'s Curriculum Vitae and Expert Report
- 2 55. Plaintiff's Expert David M. Mathis, M.D.'s Curriculum Vitae and Expert Report
- 3 56. Plaintiff's Expert Thomas M. Van Vleet, Ph.D.'s Curriculum Vitae and
- 4 Neuropsychological Assessment
- 5 57. Plaintiff's Expert Willard Fee, M.D.'s Curriculum Vitae and Expert Report
- 6 58. Plaintiff's Expert Michael McMunn, DNP's Curriculum Vitae and Expert Report
- 7 59. Defendants' Expert Alfred Joshua, M.D.'s Expert Report
- 8 60. Defendants' Expert Kimberly Pearson's Expert Report
- 9 61. Defendants' Expert Edwin C. Amos, M.D.'s Expert Report
- 10 62. Defendants' Expert Derrick P. Olzack, PA-C's Expert Report
- 11 63. Defendants' Expert Eric Volk's Expert Report
- 12 64. Sutter County Jail Booking Information 2/11/19
- 13 65. Sutter County Jail Booking Report 2/12/19
- 14 66. 3/18/19 Letter from Sergeant Lester E. Eaton re Release of Inmate Harkins
- 15 67. Sutter County Jail Release Report 3/18/19
- 16 68. Contract For Services Sutter County Department of Health and Human Services between
- 17 Sutter County and CFMG from May 1, 2017 to April 30, 2020
- 18 69. First Amendment to Contract for Services Sutter County Department of Health and
- 19 Human Services Inmate Medical Services, May 2018
- 20 70. Second Amendment to the Contract for Services Sutter County Department of Health and
- 21 Human Services, effective May 1, 2020
- 22 71. Defendant CFMG's Interrogatory Responses
- 23 72. Defendant Sutter County's Interrogatory Responses

**ATTACHMENT D**

Defendants' Exhibit List

- A. Complete CFMG Jail Medical File for Plaintiff
- B. Complete Mercy San Juan Hospital Medical File for Plaintiff
- C. UC San Francisco Complete Medical File for Plaintiff
- D. Defense Expert Dr. Edwin Amos' Curriculum Vitae, and Complete Report
- E. Defense Expert Dr. Alfred Joshua's Curriculum Vitae, and Complete Report
- F. Defense Nursing and Practices and Procedures Expert Kimberly Person's Curriculum Vitae and Complete Report
- G. Defense Expert Karl Erik Volk, M.A., Executive Vice President, J.S. Held, Curriculum Vitae and Complete Initial Report and Supplemental Report
- H. Defense Expert Derrick Olzack's, Curriculum Vitae and Complete Report
- I. Sutter County Jail Custody Files for Plaintiff
- J. Rideout Memorial Hospital Complete Medical records for Plaintiff
- K. Chico Eye Center Complete Medical Records for Plaintiff
- L. Harmony Health Complete Medical Records for Plaintiff
- M. Sierra Injury Sports Rehab Complete Records
- N. Video of Observation Cell from Sutter County Jail depicting Plaintiff